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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Conwell O Ponath, et al.,

10 Appellants,

11 v.

12 Jill H Ford,

13 Appellee.
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No. CV-22-01523-PHX-DLR

ORDER

15
16 Appellants Conwell and Cheryl Ponath filed a Chapter 7 bankruptcy petition on
17 January 18, 2022. Appellee Jill Ford was appointed acting trustee of the bankruptcy estate.
18 As of the petition date, Appellants owned a homestead in Buckeye, Arizona and had about
19 \$114,000 in equity in the homestead. Appellants claimed a homestead exemption in the
20 real property under Arizona law that exceeded the amount of their equity in the property at
21 the time they filed their petition, and Appellee objected.

22 The bankruptcy court held a hearing on July 14, 2022, to address this objection,
23 among other things. The bankruptcy court informed the parties that *Wilson v. Rigby*, 909
24 F.3d 306, 308 (9th Cir. 2018) controlled the amount a debtor may claim as a homestead
25 exemption. The bankruptcy court entered an order to that effect without objection. Yet this
26 appeal followed.

27 Appellants raise a single legal issue: whether a debtor's Arizona homestead
28 exemption claim is limited to the amount of equity in the homestead property that existed

1 at the time the debtor filed his Chapter 7 bankruptcy petition. Because this is a question of
2 law, the Court reviews it de novo. *Gebhart v. Gaughan*, 621 F.3d 1206, 1209 (9th Cir.
3 2010); *Rigby*, 909 F.3d at 308.

4 Upon filing a bankruptcy petition, a debtor's legal and equitable interests pass to the
5 bankruptcy estate, out of which the bankruptcy pays the debtor's creditors. *Rigby*, 909 F.3d
6 at 309. Once property transfers to the bankruptcy estate, so too do all "[p]roceeds, product,
7 offspring, rents, or profits" derived from that property. 11 U.S.C. § 541(a)(6). Debtors may
8 exempt certain property, including homesteads, from the bankruptcy estate. 11 U.S.C. §
9 522(b)(1). States may establish their own homestead exemptions. *Rigby*, 909 F.3d at 309.
10 Regardless of whether a debtor "claim[s] federal or state law exemptions, the value of the
11 exemption is fixed by reference to the date of the filing of the bankruptcy petition." *Id.*; see
12 also *Gebhart*, 621 F.3d at 1211 ("[W]hat is frozen as of the date of filing the petition is the
13 value of the debtor's exemption.").

14 Arizona law limits a homestead exemption to (1) the interest a debtor has in the
15 property, (2) not to exceed \$250,000. A.R.S. § 33-1101(A); see *In re Tillman*, 53 F.4th
16 1160, 1173 (9th Cir. 2022) (recognizing that a debtor may not claim the statutory limit if
17 his interest in the homestead is less than the statutory limit).

18 Under this framework, the maximum homestead exemption allowable to Appellants
19 was the lesser of their interest in the homestead at the time they filed the petition or
20 \$250,000. The Court agrees with the bankruptcy court that *Rigby* controls; the value of the
21 exemption claimed is "frozen as of the date of filing the petition," even if the home later
22 appreciates in value, the so-called Snapshot Rule. *Rigby*, 909 F.3d at 308-09 (quoting
23 *Gebhart*, 621 F.3d at 1211). Here then, the value of Appellants' homestead exemption is
24 "frozen" at the amount claimed "as of the date of filing the petition," regardless of whether
25 the homestead appreciates.

26 Appellants argue that they are entitled to any post-petition appreciation in value of
27 the homestead, up to the maximum statutory exemption, relying entirely on their own and
28 the *Rigby* dissent's characterization of *Gebhart*. But these arguments were expressly

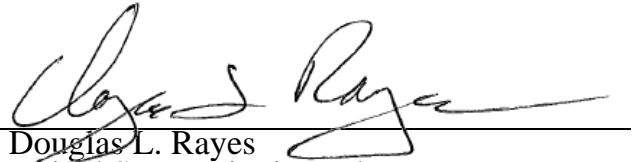
1 rejected by the majority opinion in *Rigby*, which concluded that *Gebhart* was one of many
2 Ninth Circuit cases that did not “allow[] debtors to benefit from the post-petition
3 appreciation of their homestead.” *Rigby*, 909 F.3d at 309; *see id.* at 311. Regardless of the
4 persuasiveness of Appellant's’ argument, the Court is bound by the majority opinion in
5 *Rigby*.

6 **IT IS ORDERED** that the bankruptcy court’s July 25, 2022 order (Doc. 5-16) is
7 **AFFIRMED**.

8 **IT IS FURTHER ORDERED** that the Clerk of Court is directed to enter
9 judgement in favor of Appellee and terminate this case.

10 Dated this 9th day of May, 2023.

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Douglas L. Rayes
United States District Judge